

AMENDED IN SENATE JUNE 30, 2010
AMENDED IN SENATE JUNE 24, 2010
AMENDED IN SENATE JUNE 14, 2010
AMENDED IN SENATE MARCH 15, 2010
AMENDED IN SENATE JULY 1, 2009
AMENDED IN SENATE JUNE 25, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 846

Introduced by Assembly Member Torrico

February 26, 2009

An act to add Section 12999.7 to the Food and Agricultural Code, to add ~~Section 25196.5~~ *Sections 25196.5 and 43032* to the Health and Safety Code, to add Section 6437 to the Labor Code, and to add Section 13363 to the Water Code, relating to civil and administrative penalties.

LEGISLATIVE COUNSEL'S DIGEST

AB 846, as amended, Torrico. State agencies: civil and administrative penalties.

The Administrative Procedure Act contains provisions governing the conduct of administrative adjudication for state agencies.

This bill would require the Director of Pesticide Regulation, the Department of Toxic Substances Control, the Department of Industrial Relations, *the State Air Resources Board*, and the State Water Resources

Control Board to update the maximum and minimum amounts of specified civil and administrative penalties for inflation or deflation using the Consumer Price Index, as provided. The bill would require the updated penalties to be filed with the Secretary of State and published in the California Code of Regulations.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Civil Penalties Inflation Supplement and Enforcement
3 Act of 2010.

4 SEC. 2. Section 12999.7 is added to the Food and Agricultural
5 Code, to read:

6 12999.7. (a) The director shall update, by February 15, 2011,
7 and on January 1 every four years thereafter, all civil and
8 administrative penalties imposed pursuant to this article, Section
9 14027, and Article 5 (commencing with Section 11891) of Chapter
10 4 of Division 6 to adjust the maximum and minimum amounts
11 specified in those provisions for inflation or deflation, as
12 established by the amount by which the Consumer Price Index for
13 the month of June of the year prior to the adjustment exceeds, or
14 is less than, the Consumer Price Index for June of the calendar
15 year in which legislation was last enacted establishing or amending
16 the amount of the penalty.

17 (b) The amount of any penalties determined pursuant to this
18 ~~subdivision~~ section shall be rounded as follows:

19 (1) To the nearest multiple of ten dollars (\$10) in the case of a
20 penalty less than or equal to one hundred dollars (\$100).

21 (2) To the nearest multiple of one hundred dollars (\$100) in the
22 case of a penalty greater than one hundred dollars (\$100) but less
23 than or equal to one thousand dollars (\$1,000).

24 (3) To the nearest multiple of one thousand dollars (\$1,000) in
25 the case of a penalty greater than one thousand dollars (\$1,000)
26 but less than or equal to ten thousand dollars (\$10,000).

27 (4) To the nearest multiple of five thousand dollars (\$5,000) in
28 the case of a penalty greater than ten thousand dollars (\$10,000)
29 but less than or equal to one hundred thousand dollars (\$100,000).

1 (5) To the nearest multiple of ten thousand dollars (\$10,000) in
2 the case of a penalty greater than one hundred thousand dollars
3 (\$100,000) but less than or equal to two hundred thousand dollars
4 (\$200,000).

5 (6) To the nearest multiple of twenty-five thousand dollars
6 (\$25,000) in the case of a penalty greater than two hundred
7 thousand dollars (\$200,000).

8 (c) Inflation adjustments made pursuant to this ~~subdivision~~
9 *section* shall be exempt from the requirements of Chapter 3.5
10 (commencing with Section 11340) of Part 1 of Division 3 of Title
11 2 of the Government Code.

12 (d) Updated penalties resulting from inflation adjustments made
13 pursuant to this section shall be filed with the Secretary of State
14 and published in the California Code of Regulations.

15 SEC. 3. Section 25196.5 is added to the Health and Safety
16 Code, to read:

17 25196.5. (a) The department shall update, by February 15,
18 2011, and on January 1 every four years thereafter, all civil and
19 administrative penalties imposed pursuant to this chapter to adjust
20 the maximum and minimum amounts specified in this chapter for
21 inflation or deflation, as established by the amount by which the
22 Consumer Price Index for the month of June of the year prior to
23 the adjustment exceeds, or is less than, the Consumer Price Index
24 for June of the calendar year in which legislation was last enacted
25 establishing or amending the amount of the penalty.

26 (b) The amount of any penalties determined pursuant to this
27 ~~subdivision~~ *section* shall be rounded as follows:

28 (1) To the nearest multiple of ten dollars (\$10) in the case of a
29 penalty less than or equal to one hundred dollars (\$100).

30 (2) To the nearest multiple of one hundred dollars (\$100) in the
31 case of a penalty greater than one hundred dollars (\$100) but less
32 than or equal to one thousand dollars (\$1,000).

33 (3) To the nearest multiple of one thousand dollars (\$1,000) in
34 the case of a penalty greater than one thousand dollars (\$1,000)
35 but less than or equal to ten thousand dollars (\$10,000).

36 (4) To the nearest multiple of five thousand dollars (\$5,000) in
37 the case of a penalty greater than ten thousand dollars (\$10,000)
38 but less than or equal to one hundred thousand dollars (\$100,000).

39 (5) To the nearest multiple of ten thousand dollars (\$10,000) in
40 the case of a penalty greater than one hundred thousand dollars

1 (\$100,000) but less than or equal to two hundred thousand dollars
2 (\$200,000).

3 (6) To the nearest multiple of twenty-five thousand dollars
4 (\$25,000) in the case of a penalty greater than two hundred
5 thousand dollars (\$200,000).

6 (c) Inflation adjustments made pursuant to this ~~subdivision~~
7 *section* shall be exempt from the requirements of Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code.

10 (d) Updated penalties resulting from inflation adjustments made
11 pursuant to this section shall be filed with the Secretary of State
12 and published in the California Code of Regulations.

13 *SEC. 4. Section 43032 is added to the Health and Safety Code,*
14 *to read:*

15 *43032. (a) By February 15, 2011, and on January 1 every four*
16 *years thereafter, the state board shall update all civil and*
17 *administrative penalties imposed pursuant to this chapter to adjust*
18 *the maximum and minimum amounts specified in this chapter for*
19 *inflation or deflation, as established by the amount by which the*
20 *Consumer Price Index for the month of June of the year prior to*
21 *the adjustment exceeds, or is less than, the Consumer Price Index*
22 *for June of the calendar year in which legislation was last enacted*
23 *establishing or amending the amount of the penalty.*

24 *(b) The amount of any penalties determined pursuant to this*
25 *section shall be rounded as follows:*

26 *(1) To the nearest multiple of ten dollars (\$10) in the case of a*
27 *penalty less than or equal to one hundred dollars (\$100).*

28 *(2) To the nearest multiple of one hundred dollars (\$100) in the*
29 *case of a penalty greater than one hundred dollars (\$100) but less*
30 *than or equal to one thousand dollars (\$1,000).*

31 *(3) To the nearest multiple of one thousand dollars (\$1,000) in*
32 *the case of a penalty greater than one thousand dollars (\$1,000)*
33 *but less than or equal to ten thousand dollars (\$10,000).*

34 *(4) To the nearest multiple of five thousand dollars (\$5,000) in*
35 *the case of a penalty greater than ten thousand dollars (\$10,000)*
36 *but less than or equal to one hundred thousand dollars (\$100,000).*

37 *(5) To the nearest multiple of ten thousand dollars (\$10,000)*
38 *in the case of a penalty greater than one hundred thousand dollars*
39 *(\$100,000) but less than or equal to two hundred thousand dollars*
40 *(\$200,000).*

1 (6) *To the nearest multiple of twenty-five thousand dollars*
2 *(\$25,000) in the case of a penalty greater than two hundred*
3 *thousand dollars (\$200,000).*

4 (c) *Inflation adjustments made pursuant to this section shall be*
5 *exempt from the requirements of Chapter 3.5 (commencing with*
6 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
7 *Code.*

8 (d) *Updated penalties resulting from inflation adjustments made*
9 *pursuant to this section shall be filed with the Secretary of State*
10 *and published in the California Code of Regulations.*

11 ~~SEC. 4.~~

12 SEC. 5. Section 6437 is added to the Labor Code, to read:

13 6437. (a) The department shall update, by February 15, 2011,
14 and on January 1 every four years thereafter, all civil and
15 administrative penalties imposed pursuant to this part to adjust the
16 maximum and minimum amounts specified in this part for inflation
17 or deflation, as established by the amount by which the Consumer
18 Price Index for the month of June of the year prior to the
19 adjustment exceeds, or is less than, the Consumer Price Index for
20 June of the calendar year in which legislation was last enacted
21 establishing or amending the amount of the penalty.

22 (b) The amount of any penalties determined pursuant to this
23 ~~subdivision~~ *section* shall be rounded as follows:

24 (1) To the nearest multiple of ten dollars (\$10) in the case of a
25 penalty less than or equal to one hundred dollars (\$100).

26 (2) To the nearest multiple of one hundred dollars (\$100) in the
27 case of a penalty greater than one hundred dollars (\$100) but less
28 than or equal to one thousand dollars (\$1,000).

29 (3) To the nearest multiple of one thousand dollars (\$1,000) in
30 the case of a penalty greater than one thousand dollars (\$1,000)
31 but less than or equal to ten thousand dollars (\$10,000).

32 (4) To the nearest multiple of five thousand dollars (\$5,000) in
33 the case of a penalty greater than ten thousand dollars (\$10,000)
34 but less than or equal to one hundred thousand dollars (\$100,000).

35 (5) To the nearest multiple of ten thousand dollars (\$10,000) in
36 the case of a penalty greater than one hundred thousand dollars
37 (\$100,000) but less than or equal to two hundred thousand dollars
38 (\$200,000).

(6) To the nearest multiple of twenty-five thousand dollars (\$25,000) in the case of a penalty greater than two hundred thousand dollars (\$200,000).

(c) Inflation adjustments made pursuant to this ~~subdivision~~ *section* shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Updated penalties resulting from inflation adjustments made pursuant to this section shall be filed with the Secretary of State and published in the California Code of Regulations.

~~SEC. 5.~~

SEC. 6. Section 13363 is added to the Water Code, to read:

13363. (a) The state board shall update, by February 15, 2011, and on January 1 every four years thereafter, all civil and administrative penalties imposed pursuant to this division or pursuant to Section 25270.12, 25299, or 25299.76 of the Health and Safety Code to adjust the maximum and minimum amounts specified in those provisions for inflation or deflation, as established by the amount by which the Consumer Price Index for the month of June of the year prior to the adjustment exceeds, or is less than, the Consumer Price Index for June of the calendar year in which legislation was last enacted establishing or amending the amount of the penalty.

(b) The amount of any penalties determined pursuant to this ~~subdivision~~ *section* shall be rounded as follows:

(1) To the nearest multiple of ten dollars (\$10) in the case of a penalty less than or equal to one hundred dollars (\$100).

(2) To the nearest multiple of one hundred dollars (\$100) in the case of a penalty greater than one hundred dollars (\$100) but less than or equal to one thousand dollars (\$1,000).

(3) To the nearest multiple of one thousand dollars (\$1,000) in the case of a penalty greater than one thousand dollars (\$1,000) but less than or equal to ten thousand dollars (\$10,000).

(4) To the nearest multiple of five thousand dollars (\$5,000) in the case of a penalty greater than ten thousand dollars (\$10,000) but less than or equal to one hundred thousand dollars (\$100,000).

(5) To the nearest multiple of ten thousand dollars (\$10,000) in the case of a penalty greater than one hundred thousand dollars (\$100,000) but less than or equal to two hundred thousand dollars (\$200,000).

1 (6) To the nearest multiple of twenty-five thousand dollars
2 (\$25,000) in the case of a penalty greater than two hundred
3 thousand dollars (\$200,000).

4 (c) Inflation adjustments made pursuant to this ~~subdivision~~
5 *section* shall be exempt from the requirements of Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3 of Title
7 2 of the Government Code.

8 (d) Updated penalties resulting from inflation adjustments made
9 pursuant to this section shall be filed with the Secretary of State
10 and published in the California Code of Regulations.